

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 DESIREE I. KELLOGG
Deputy Attorney General
4 State Bar No. 126461
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2996
7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 4176

12 **DANIEL MARK KALDAS**
13 **19036 Summit Ridge Drive**
14 **Walnut, CA 91789**

ACCUSATION

15 **Designated Representative Certificate No.**
EXC 19718

16 Respondent.

17
18
19 Complainant alleges:

20 **PARTIES**

- 21 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
22 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 23 2. On or about April 8, 2008, the Board of Pharmacy issued Designated Representative
24 Certificate Number EXC 19718 to Daniel Mark Kaldas (Respondent). The Designated
25 Representative Certificate was in full force and effect at all times relevant to the charges brought
26 herein and will expire on April 1, 2012, unless renewed.
- 27
28

JURISDICTION

3. This Accusation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 4300, subdivision (a) of the Code states in pertinent part, "every license issued may be suspended or revoked."

STATUTORY AND REGULATORY PROVISIONS

6. Section 4060 of the Code states:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer.

Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and devices.

7. Section 4301 of the Code states:

The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

1 (h) The administering to oneself, of any controlled substance, or the use of
2 any dangerous drug or of alcoholic beverages to the extent or in a manner as to be
3 dangerous or injurious to oneself, to a person holding a license under this chapter,
4 or to any other person or to the public, or to the extent that the use impairs the
ability of the person to conduct with safety to the public the practice authorized by
the license.

5
6 (j) The violation of any of the statutes of this state, or any other state, or of the
United States regulating controlled substances and dangerous drugs.
7

8 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
9 abetting the violation of or conspiring to violate any provision or term of this chapter or of
the applicable federal and state laws and regulations governing pharmacy, including
10 regulations established by the board or by any other state or federal regulatory agency.
11

12 COST RECOVERY

13 8. Section 125.3 of the Code provides, in pertinent part, that the Board may request
14 the administrative law judge to direct a licensee found to have committed a violation or
15 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
16 and enforcement of the case.

17 DRUG

18 9. Marijuana is a Schedule I controlled substance as designated by Health and Safety
19 Code section 11054(d)(13), and is a dangerous drug pursuant to Business & Professions Code
20 section 4022.

21 FACTUAL ALLEGATIONS

22 10. On or about November 2, 2006, Respondent made an illegal U-turn at Route 66 and
23 Grand Avenue in Glendora, California even though there were a total of four, clearly visible
24 traffic signs stating that U-turns were prohibited at the intersection. A police officer then initiated
25 a traffic stop of Respondent's vehicle. While Respondent was searching his vehicle for his
26 registration and insurance, the police officer observed a plastic baggie which Respondent
27 attempted to conceal. The police officer then asked Respondent if there was anything illegal in
28

1 his vehicle and Respondent stated that he only had a broken marijuana pipe in his glove
2 compartment. The police officers then searched Respondent's vehicle and located approximately
3 .02 grams of marijuana in Respondent's vehicle. Respondent was subsequently arrested for
4 violating Vehicle Code section 23222(b), possession of marijuana in a vehicle and section
5 21461(a), failing to obey a traffic sign. Criminal charges were filed against Respondent in *The*
6 *People of the State of California v. Daniel Mark Kaldas*, Los Angeles County Superior Court
7 Case No.6JB09353. On March 15, 2007, the Court subsequently dismissed the charges pursuant
8 to Penal Code section 1385 on the grounds that Respondent had completed the Orange Coast
9 College Alcohol and Awareness Program.

10 11. On or about November 24, 2010, Respondent drove his vehicle at a speed in excess of
11 80 miles per hour on San Jose Road in Rowland Heights, California. Los Angeles County sheriff
12 deputies observed Respondent's vehicle and conducted a traffic stop of his vehicle. As the police
13 officers approached the vehicle, they smelled the odor of marijuana emitting from the interior of
14 the vehicle which prompted them to ask Respondent if he possessed marijuana. Respondent
15 admitted that he had marijuana inside the driver's side door compartment. Respondent then
16 exited his vehicle and a yellowish substance fell to the ground from Respondent's vehicle.
17 Respondent told the deputies that this substance was hashish. The deputies then searched
18 Respondent's vehicle and located a purple pill bottle containing a green leafy substance
19 resembling marijuana inside the driver's side door compartment. It appeared that Respondent had
20 been smoking marijuana while in a motor vehicle that was being operated. Respondent was
21 subsequently arrested for violating Health and Safety Code section 11357(a), Vehicle Code
22 section 23222(b) and Vehicle Code section 22350(a). Criminal charges were filed against
23 Respondent in *The People of the State of California v. Daniel Mark Kaldas*, Los Angeles County
24 Superior Court Case No. KA092899. On April 1, 2011, the Court dismissed the charges against
25 Respondent on the grounds there was insufficient cause because Respondent had a valid
26 physician's recommendation for marijuana on the date of the arrest.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct-Violating Law Regulating Controlled Substances)**

3 12. Respondent is subject to disciplinary action under section 4301(j) of the Code in that
4 on or about November 2, 2006 and November 24, 2010, Respondent violated the California
5 Uniform Controlled Substances Act (Health and Safety Code sections 11000, *et seq.*) as is more
6 fully described in paragraphs 10-11, above.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Unprofessional Conduct-Violations of the Chapter)**

9 13. Respondent is subject to disciplinary action under section 4301(o) of the Code for
10 violation of the Pharmacy Act in that on or about November 2, 2006, Respondent possessed a
11 controlled substance, marijuana, without a physician's recommendation, in violation of Code
12 section 4060 as is more fully described in paragraph 10, above.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(Unprofessional Conduct-Administration of Controlled Substance To An Extent or In A**
15 **Manner Dangerous to Oneself or Others)**

16 14. Respondent is subject to disciplinary action under section 4301(h) of the Code in that
17 on or about November 2, 2006 and November 24, 2010, Respondent administered a controlled
18 substance, marijuana to himself to an extent or in a manner dangerous to himself or others as is
19 more fully described in paragraphs 10-11, above.

20 **FOURTH CAUSE FOR DISCIPLINE**

21 **(Unprofessional Conduct)**

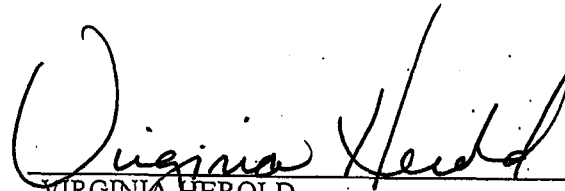
22 15. Respondent is subject to disciplinary action under section 4301 of the Code in that on
23 or about November 2, 2006 and November 24, 2010, Respondent engaged in unprofessional
24 conduct as is more fully described in paragraphs 10-11, above.

25 **PRAYER**

26 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
27 and that following the hearing, the Board of Pharmacy issue a decision:
28

- 1 1. Revoking or suspending Designated Representative Certificate Number EXC 19718,
2 issued to Daniel Mark Kaldas;
- 3 2. Ordering Daniel Mark Kaldas to pay the Board of Pharmacy the reasonable costs of
4 the investigation and enforcement of this case, pursuant to Business and Professions Code section
5 125.3;
- 6 3. Taking such other and further action as deemed necessary and proper.

7
8
9
10 DATED: 5/4/12


VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

11
12
13
14 SD2011801215
15 80613704.doc
16
17
18
19
20
21
22
23
24
25
26
27
28